

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT EARL PRATT, JR.,

Petitioner,

v.

Case No. 16-10236
HONORABLE AVERN COHN

STEVEN RIVARD,

Respondent.

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ORDER DENYING PETITIONER'S REQUEST TO REOPEN (Doc. 5)

I.

This is a habeas case under 28 U.S.C. § 2254. On February 2, 2016, the Court dismissed the petition without prejudice as premature because Petitioner's state convictions and sentences were not yet final given that the Michigan Supreme Court reversed in part and remanded his case to the trial court for re-sentencing. (Doc. 3). The Court also noted that any challenge to the re-sentencing decision would have to be fully exhausted in the state courts before Petitioner could seek federal habeas review.

Before the Court is Petitioner's letter in which he says he wants to re-open his habeas case because the trial court denied re-sentencing (indicating that it would not impose a different sentence and affirming the original sentence) on January 21, 2016. The Court construes the letter as a request to reopen. For the reasons that follow, the request is DENIED.

II.

Petitioner says he seeks to challenge the trial court's decision. However, he must fully exhaust that claim in the state courts by pursuing appellate review of the trial

court's re-sentencing decision before seeking federal habeas review. See O'Sullivan v. Boerckel, 526 U.S. 838, 845 (1999) ("state prisoners must give the state courts one full fair opportunity to resolve any constitutional issues by invoking one complete round of the State's established appellate review process"). Petitioner has clearly not yet done so. As previously stated, should Petitioner wish to pursue federal habeas review after the exhaustion of his state court appellate remedies, he must file a new habeas petition.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: March 4, 2016
Detroit, Michigan